

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTH REGION**

**COUNTRY FRESH, LLC<sup>1</sup>**

**Employer**

**and**

**Case GR-7-RC-22952**

**GENERAL TEAMSTERS UNION, LOCAL  
406, INTERNATIONAL BROTHERHOOD OF TEAMSTERS<sup>2</sup>**

**Petitioner**

**APPEARANCES:**

Henry W. Sledz, Jr. and Laura B. Friedel, Attorneys, of Chicago, Illinois, for  
the Employer

Ted Iorio, Attorney, of Grand Rapids, Michigan, for the Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition filed under Section 9(b) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding<sup>3</sup>, the undersigned finds:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

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<sup>1</sup> The name of the Employer appears as amended at hearing.

<sup>2</sup> The name of the Petitioner appears as amended at hearing.

<sup>3</sup> Both parties filed briefs, which were carefully considered.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

## **Overview**

The Petitioner seeks to represent a single unit of approximately seven full-time and regular part-time drivers employed by the Employer at its facility located in Traverse City, Michigan, but excluding all guards and supervisors as defined in the Act. The Employer contends that the unit must also include a second facility located in Cadillac, Michigan because the two facilities share a community of interest and are an integrated operation under the Board's standards.

After considering all the evidence in the record, including the lack of local autonomy; centralized control of operations, personnel functions and labor relations; common supervision; interchange of drivers between the two facilities; common employee skills, benefits and employee policies; and overlapping service routes, I find that the Employer has overcome the single facility presumption. Accordingly, I shall direct an election for drivers employed at both the Traverse City and Cadillac facilities.

## **The Employer's Operations**

The Employer, a subsidiary of Dean Foods, produces, processes, and distributes milk, ice cream and various dairy products to grocery stores, convenience stores, other retail outlets, and institutions. The Employer's main production facility is located in Grand Rapids, Michigan, where most of its dairy products are produced. The main office for the western region of Michigan is also located in Grand Rapids, which houses the sales, accounting and billing, and human resources departments.

The Employer acquired its Traverse City facility in November 1986. In July 2003, Dean Foods purchased Melody Farms, also a producer of milk and dairy products. Thereafter, in February 2004, the Melody Farms product line was transferred to the Employer, resulting in the acquisition of the Cadillac facility, which employs approximately seven unrepresented drivers. The Employer has

other facilities in Livonia, Detroit, Comstock Park, Kalamazoo, and Battle Creek, Michigan. The Livonia and Detroit facilities comprise one unit of represented drivers. The Grand Rapids, Comstock Park, and Kalamazoo drivers comprise a separate unit of drivers represented by Petitioner. The Battle Creek drivers are in a single facility unit represented by Local 7, Teamsters.

Traverse City and Cadillac are approximately 50 miles apart. For dairy products other than ice cream, the Traverse City facility services the northern and northwest areas of the lower peninsula of Michigan, and abuts the area serviced by the Cadillac facility, which is directly south. There is a separate geographic area for ice cream distribution since ice cream is delivered from the Cadillac facility only for Traverse City and Cadillac customers. The Employer services a “couple hundred or more” customers from the two locations. Approximately 70 customers in the Traverse City service area are serviced by both a Traverse City milk driver and a Cadillac ice cream driver.

The Traverse City facility is set on two acres of property, which houses a double-wide trailer office and a facility with a dock, small cooler and storage area. Milk and dairy products, such as cottage cheese, sour cream and chip dip, are produced in Grand Rapids and distributed through the Traverse City facility to small supermarkets, convenience stores and schools. The seven drivers, distribution supervisor Russ Nally, and sales representative Craig MacMillan use the facility. There are no office or clerical employees in Traverse City.

The Cadillac facility is located at a Star Truck Rental yard. It consists of a truck parking area and a small 10 by 20-foot trailer which is used primarily for an office. Dairy products and ice cream are produced in Grand Rapids and distributed to small grocery stores, convenience stores, schools, Dairy Queens, and drug stores through the Cadillac facility. Like Traverse City, the facility is used by its seven drivers, along with Nally and MacMillan. There are no office employees or assistants in Cadillac.

### **Bargaining History**

The drivers at Traverse City and Cadillac have never been represented by a union. In March 2004, in Case GR-7-UC-579, the Petitioner sought to accrete the Traverse City, Cadillac and Kalamazoo facilities into the Grand Rapids bargaining unit. Kalamazoo is 50 miles from Grand Rapids and employed one driver. Traverse City and Cadillac are 150 and 100 miles from Grand Rapids, respectively. In a decision issued on June 2, 2004, I found it appropriate to accrete the single Kalamazoo driver into the Grand Rapids unit. However, I denied the Petitioner’s request to clarify the Traverse City and Cadillac drivers into the Grand

Rapids unit. Shortly thereafter, the Employer and Petitioner entered into Stipulated Election Agreements for separate units of drivers at the Cadillac and Traverse City facilities in Cases 7-RC-22793 and 7-RC-22794, respectively. The Stipulated Election Agreements were approved on October 18, 2004, and withdrawn with prejudice by the Petitioner on November 10, 2004.

### **Management Hierarchy**

The Employer's general manager is Nick Kelble. David Chamberlin is the distribution manager for all locations and oversees the entire distribution operation. Under Chamberlin is Russ Nally, distribution supervisor for Traverse City and Cadillac. They are all based in Grand Rapids.

Prior to the consolidation of Country Fresh and Melody Farms, there were separate branch managers for Cadillac and Traverse City. The Melody Farms branch manager for the Cadillac facility, Keith Ebels, was retained in the acquisition of Melody Farms. His employment with the Employer was later terminated in November 2004. The branch manager for the Traverse City facility at that time was Marty Sanders. He was stationed out of Grand Rapids and visited the Traverse City facility once a week. Towards the end of Ebels' tenure with the Employer, Sanders also visited the Cadillac facility.

Between November 2004 and January 2005, after Ebel's termination, the Employer began to integrate the supervision between Traverse City and Cadillac. During that period, Sanders became the plant foreman in Grand Rapids. As a result, Chamberlin, with assistance from his aide, Deb Rodenhouse, served for a brief period as the interim supervisor for both locations. In January 2005, Bruce Packard was hired and supervised the Traverse City and Cadillac facilities. Packard was stationed in Grand Rapids, and visited both the Traverse City and Cadillac facilities one to three times per week. Nally replaced Packard in late 2005 as distribution supervisor for both facilities.

Nally's office is located in Grand Rapids, and he resides in Muskegon. He spends 2 to 3 days per week in Traverse City, approximately 9 to 10 hours each day. He spends much of his time riding in trucks to learn the routes. On his way to or back from Traverse City, Nally stops at the Cadillac facility for about three to four hours, also to learn the routes. Nally does not drive the trucks.

As the distribution supervisor, Nally supervises every route in Traverse City and Cadillac, and assigns all the work for those two locations. He sets the schedules for the drivers, approves overtime, and resolves any questions regarding route coverage and customer disputes. If a new customer is acquired, Nally

examines the current routes in the area and determines which route would be the best fit for the account.

Nally makes the initial determination on vacation leave requests, with final approval by Chamberlin. In deciding whether to approve vacation requests, Nally keeps both facilities in mind to assure proper route coverage. When a vacation request is approved and a driver is on leave, Nally is responsible for determining how that route will be covered. Nally has the discretion to decide how many employees at any one time are granted a day off. When possible, he attempts to grant time off to only one driver at a time between the two facilities.

Nally has the authority to issue verbal and written disciplines, and suspensions pending investigation, but may seek advice from Chamberlin or human resources. For example, Nally has verbally warned employees about locking their trucks, and for uniform violations. For suspensions and terminations, Nally participates in the investigation and makes recommendations, but the ultimate decision is made by Chamberlin and the human resources department. Nally has been involved in issuing discipline only in Traverse City and Cadillac, and not at any other location.

Nally advises the Employer when an additional driver needs to be hired, although the need to hire a driver also can come from Chamberlin. Thereafter, Nally is involved in the hiring procedure, interview, and final decision.

Nally's role is identical at both the Traverse City and Cadillac facilities. If Nally is on leave or unavailable, Chamberlin or a supervisor from Grand Rapids steps in. Nally does not have any assistants to help him in any of his duties. Neither facility employs a local manager or lead person.

## **Driver Duties**

The same job description applies to drivers at both locations. Every driver is assigned his own company-issued truck. The necessary qualifications for a driver are passing the Department of Transportation's physical exam and drug screen. Drivers also are required to pass a background check. They must possess a commercial drivers license, known as a CDL-A. There is one driver at the Cadillac facility with a CDL-B license for driving a straight truck only. He is working towards earning his CDL-A license which will allow him to drive a tractor-trailer unit. All drivers use tractor-trailer units, with the exception of one or two who drive straight truck units out of Cadillac. Those units are used for ice cream routes.

Drivers at both locations are provided hand-held computers with printers, full rod, and pallet jack. All drivers are required to wear the uniform provided by the Employer: blue or red shirt and blue trousers with the Employer's logo and employee's name on it.

Each location employs six route drivers and one shuttle driver. The shuttle drivers are responsible for driving to the Grand Rapids production facility, picking up dairy products, delivering the products back to their facility, and loading the trucks for the route drivers. Shuttles operate five days per week. A Grand Rapids shuttle driver also drives to Traverse City two or three days per week to deliver products. Shuttle drivers infrequently fill in for absent route drivers.

When Traverse City and Cadillac route drivers arrive at their facility, they punch in at the time clock. Then, they download into their computers, also known as T-com, all the orders to be filled that day, including pre-orders from customers, and essentially set up the day's activities. The drivers print a load report, pull the pick tickets, check the inventory on the truck and start their routes. If a truck has not been loaded by the shuttle driver, the route driver loads the truck himself.

Some customers call in their orders. These appear on a pre-order sheet and are segregated on the truck specifically for that customer. Drivers also may make up peddle routes. This involves a driver examining a customer's inventory, creating an order based on what items are needed, pulling the needed products from the bulk supply on the truck, and delivering the products to the customer. On average, a route driver has between 10 to 12 stops each day, and drives approximately 100 to 150 miles per day. Ice cream distribution for the Cadillac drivers involves driving more miles because of the larger geographic area covered and additional number of stops.

The typical working hours for the Traverse City and Cadillac milk drivers are 3:00 a.m. to about 1:00 or 2:00 p.m. The end of their shift is determined by when their route is completed. Cadillac ice cream drivers begin their shift at 5:00 a.m. and work until about 6:00 or 7:00 p.m. The Traverse City shuttle driver works from 2:00 p.m. until 8:00 to 10:00 p.m. The Cadillac shuttle driver starts between 5:00 and 8:00 p.m. and works until 2:00 or 3:00 a.m. The different working hours for the shuttle drivers is designed to assist each of them. For example, if a product does not make it on to the Traverse City shuttle because of a late order, mispull, or just not fitting on the truck, the Cadillac shuttle driver can bring it to the Traverse City facility. This may occur once or twice per month. For that reason, and for times when they need to cover each other's route, both shuttle drivers have the keys to both facilities.

Breaks for the drivers are the same for both facilities, and are regulated by the Department of Transportation. Drivers at both facilities receive a half-hour paid lunch break. When drivers return to the facility at the end of the day, they off-load their empties, review their paperwork, and create their orders for the next day. They consolidate their reports and send them to the Grand Rapids office.

### **Employee Interchange and Contact**

There have been no permanent transfers between the Traverse City and Cadillac facilities.

There is some interchange between the shuttle drivers. Possibly once or twice per month, the shuttle driver from Traverse City drives to the Cadillac facility to drop off products that were missed on the prior day's shuttle from Grand Rapids to Cadillac. Within the last six months, the shuttle drivers from Traverse City and Cadillac have covered each other's routes approximately 8 to 10 times because of vacation days. When this happens, the shuttle driver combines both routes to cover each facility.

The Employer has hired swing drivers to help fill the needs at both facilities. Todd Norton was hired in October 2005 as a distribution coordinator or swing driver for Cadillac and Traverse City. He worked until February 2006. Norton was assigned to the Cadillac facility, but covered routes at both locations. He spent about 75% of his time working routes in Traverse City, and 25% of his time working in Cadillac. During his employment, he punched in and out of the Cadillac facility. Norton's work in Traverse City was necessitated by a driver's discharge in January 2006 and by another driver being on sick leave.

Allen Lucas is a Cadillac route driver who has served as a swing driver. Until recently, he serviced routes in Traverse City about 30% of the time to assist with the driver shortage in Traverse City. When Lucas runs a Traverse City route, he either works overtime or his Cadillac route is absorbed into two other routes for Cadillac drivers to fill. Off and on since December 2005, another Cadillac driver has been running routes in Traverse City to cover the driver shortage while concurrently maintaining his own route in Cadillac. This results in the Cadillac driver working overtime hours.

In May 2006, John Steed, a former employee, was rehired to work for the Employer as a swing driver out of Traverse City. At the time of his hire, he was told by the Employer that he was responsible for covering the vacation leaves and sick leaves for drivers' routes in both Cadillac and Traverse City, as needed. Hiring Steed brought the complement of drivers back to seven in Traverse City.

If a route driver is absent, Nally first looks to see if a swing driver is available at that facility to cover the route. If one is not available, Nally looks for a swing driver from the other location. If one is not available there either, a shuttle driver fills the vacancy. If no shuttle drivers are available, Nally or Bruce Packard, the former supervisor for Traverse City and Cadillac, and now a supervisor in Grand Rapids, fills the route. Drivers from the Kalamazoo or Battle Creek facilities are not called for coverage. A Grand Rapids driver would be called only to cover a shuttle driver's absence.

The drivers from both locations use each other's equipment. For example, if a Cadillac driver was running a Traverse City route, he punches in at Cadillac, drives to Traverse City, and uses all of Traverse City's equipment. He uses the Traverse City computer to download, or T-com, the orders. He also uses the Traverse City hand-held computer, printer and pole bars, all of which stay with the Traverse City truck. Once the driver's paperwork is organized, he runs the route in Traverse City with a Traverse City truck, returns the truck to the facility, and drives back to Cadillac in his Cadillac truck to punch out.

Traverse City and Cadillac employees drive Star Truck Rental trucks. Star is a truck rental facility headquartered in Grand Rapids, which the Employer has a contract with for truck rentals. If a Cadillac driver is geographically closer to Traverse City when he experiences a minor repair problem with his truck, he drives to the Traverse City Star location. The same is true for a Traverse City truck driver who is closer to the Cadillac Star location. For larger repairs, drivers take their trucks to the central garage in Grand Rapids. In January or February 2006, a Traverse City straight truck running a milk route broke down. A Cadillac driver brought his tractor-trailer unit from Cadillac to Traverse City and ran the route.

The Employer hosts separate holiday parties for the Traverse City and Cadillac drivers. In October 2004, drivers from both facilities attended a training meeting together on how to use the hand-held computers.

### **Labor Relations, Pay and Benefits**

Rene Buggs is the human resources manager. She works out of the Grand Rapids facility, which houses the human resources department. She oversees the Traverse City, Cadillac, Battle Creek and Kalamazoo facilities. There is no human resources representative specifically designated for only Traverse City and Cadillac. Buggs visits the Traverse City or Cadillac facility for scheduled roundtable meetings or open enrollment for benefits. Buggs may also visit to assist with discipline regarding a suspension or termination. She reports to



General Manager Kelble. Buggs applies the same disciplinary standards and work rules to Traverse City and Cadillac.

Traverse City and Cadillac drivers have separate employee handbooks, but they are identical in content. No other facility uses the same handbooks as Traverse City and Cadillac. All Country Fresh employees follow the same Dean Foods Code of Ethics. The Traverse City and Cadillac facilities maintain separate seniority lists, based on hire date.

Traverse City and Cadillac drivers are now on the same wage scale and rate schedule. To accomplish that, in January 2005, the Employer granted the Traverse City drivers a \$1.10 per hour wage increase. Drivers at both locations have the same hourly starting rate, and follow the same wage rate progression, which is outlined in the employee handbooks. Drivers at both locations receive the same yearly increase, \$.50 an hour. Traverse City drivers receive their raises in July. Cadillac drivers receive their raises in January, the date they had received them when they were employed by Melody Farms. The current hourly drivers' rate at Cadillac is \$18.35. The rate at Traverse City is \$.50 per hour less, \$17.85 per hour, until July when the wage rates will be equalized.

All benefits are identical. Traverse City and Cadillac drivers and other nonunion employees have the same 401(k) plan and share the same group plan for health insurance, life insurance and disability insurance. Employees at both locations are eligible for the same stock purchase benefits and the same "incentive days" plan, which from the record appears to provide for days off based on good attendance.

Vacation requests at both facilities are determined by seniority. Nally considers the vacation requests from both sites when he initially approves them. He tries not to have more than one person on vacation at the same time at each location. In addition, he has asked employees at one facility to try to reschedule their vacation so it does not overlap with a driver's vacation at the other facility. However, if an employee cannot reschedule his vacation, and it is concurrent with a vacation at the other location, Nally is bound to grant both vacation requests because of the separate employee handbooks and rules for each facility. During the busy summer months, Nally has had one driver on vacation in Traverse City and one driver on vacation in Cadillac. However, he attempts to avoid this situation at all costs, so he can have more options if another driver calls in sick.

Traverse City and Cadillac are on the same line item in the Employer's budget. The budget for diesel fuel is not separate for Cadillac and Traverse City. Utilities, however, are budgeted separately for tracking purposes. Uniforms are all

purchased centrally out of Grand Rapids. The payroll is administered out of Grand Rapids. Paychecks are issued by Dean Foods for both facilities, on a weekly basis, every Thursday. Accounts payable and accounts receivable are handled by Grand Rapids for both the Traverse City and Cadillac locations. Order Entry is centrally located in Grand Rapids. The sales department is also located in Grand Rapids. Craig Macmillan handles sales for both locations. He lives in Traverse City and works out of his home. He also serves as the sales representative for other areas in the Upper Peninsula, which are not serviced by either the Traverse City or Cadillac facilities.

## **Analysis**

It is well settled that in fashioning a bargaining unit the Board does not require “the most appropriate unit,” but only that the unit be “appropriate.” *Overnight Transportation Co.*, 322 NLRB 723 (1996), quoting *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), *enfd.* 190 F.2d 576 (7<sup>th</sup> Cir. 1951). The petitioned-for unit is a relevant consideration, but it is not dispositive. *Airco, Inc.*, 273 NLRB 348 (1984); *Marks Oxygen Co. of Alabama*, 147 NLRB 228, 229-230 (1964). Here, the Petitioner seeks a unit of drivers at a single facility, instead of 2 facilities 50 miles from each other as proposed by the Employer.

A single facility unit is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated that it has lost its separate identity. *Catholic Healthcare West*, 344 NLRB No. 93, slip op at 1 (June 1, 2005); *J&L Plate, Inc.*, 310 NLRB 429 (1993). The burden of rebutting the presumption rests on the party seeking a multi-facility unit. *Id.* The burden is heavy. *Catholic Healthcare West*, *supra*. However, the Board “has never held or suggested that to rebut the presumption a party must proffer ‘overwhelming evidence...illustrating the complete submersion of the interests of employees at the single store,’ nor is it necessary to show that ‘the separate interests’ of the employees sought have been ‘obliterated.’” *Trane*, 339 NLRB 866, 867 (2003), quoting *Petrie Stores Corp.*, 266 NLRB 75, 76 (1983).

To determine whether the presumption has been rebutted, the Board considers such factors as centralized control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; geographic proximity; and bargaining history, if any. *New Britain Transportation Co.*, 330 NLRB 397 (1999); *Bowie Hall Trucking, Inc.*, 290 NLRB 41, 42 (1988); *D&L Transportation, Inc.*, 324 NLRB 160 (1997). The Board considers separate supervision and the degree of employee interchange to be of particular importance in determining whether the single facility presumption has been rebutted.

*Catholic Healthcare West*, supra, citing *Passavant Retirement Health Center*, 313 NLRB 1216, 1218 (1994).

In the instant case, the employees possess identical skills, perform indistinguishable functions, and work under the same working conditions. Further, all supervisory functions for Traverse City and Cadillac are centralized out of the Grand Rapids office. The distribution supervisor, Nally, is the direct supervisor for both Traverse City and Cadillac. He is responsible for work assignments, scheduling, most discipline, and other supervisory decisions. Traverse City employees have no separate supervisors or even lead drivers apart from their Cadillac colleagues. All administrative and management functions are centrally handled by, and located in, Grand Rapids, including payroll and human resources.

The complete absence of any separate supervision at the Cadillac facility leads to the conclusion that the Cadillac location has no local autonomy apart from Traverse City. See *Trane*, supra at 867-868 (no separate supervisor or leadman at second facility).

Accordingly, the instant case is distinguishable from *New Britain Transportation Co.*, supra, cited by the Petitioner. In that case, the Board found that the single facility presumption stood un rebutted based in part on evidence of local autonomy. There were dispatchers and facility managers at each location who played an important role in performing labor relations functions. Here, the Traverse City and Cadillac facilities share one common supervisor.

There is also interchange between and contact among the drivers in the petitioned-for unit and the drivers in Cadillac. The Traverse City and Cadillac shuttle drivers occasionally cover each other's routes and have and use keys to each facility. Swing drivers are employed to fill the needs for coverage at both facilities. The interchange that occurs is not infrequent. See *Mercy Health Services North*, 311 NLRB 367, 367-368 (1993).

The geographic separation of 50 miles between the two facilities is a factor supporting the appropriateness of a single facility unit. However, in the circumstances present here, not much emphasis can be placed on that single factor. See *In re Trane*, 339 NLRB 866 (2003). (the Board found a geographical distance of 108 miles between facilities to be significant, but insufficient to find a single facility unit appropriate.); *Waste Management Northwest*, 331 NLRB 309 (2000) (42 miles separation not enough to overcome other factors that rebut presumption that single facility unit was appropriate).

Finally, there is no bargaining history among the employees. The Petitioner cites the 2004 stipulated election agreements for separate Traverse City and Cadillac units as evidence that the Employer has a practice of dealing with single facility units. Although the petitioned-for unit is the same as the Traverse City unit that was stipulated as appropriate in 2004, there have been changes made by the Employer that affect the current unit. As noted, in late 2004-early 2005, the Employer integrated supervision between the facilities. It has also hired swing drivers beginning in late 2005. Further, there was no Board finding as to the unit's appropriateness in 2004. It has long been the Board's policy not to consider itself bound by a bargaining history (or lack of bargaining history) resulting from an election in a unit stipulated to by the parties and not determined by the Board. *Laboratory Corp. of America Holding*, 341 NLRB No. 140, slip op at 5 (May 28, 2004), citing *Amoco Production Co.*, 233 NLRB 1096, 1097 (1977); *Mid-West Abrasive Co.*, 145 NLRB 1665, 1667 (1964). The absence of bargaining history is at most a neutral factor in the analysis. *Trane*, supra at 868 fn. 4.

## Conclusion

I find that the centralized control over daily operations and labor relations; lack of local autonomy; common supervision; identical skills, duties, and other terms and conditions of employment; and interchange between the employees is sufficient to rebut the single facility presumption. Accordingly, I shall direct an election for a single unit of drivers employed at the Traverse City and Cadillac facilities.

In view of the foregoing, I find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act<sup>4</sup>:

All full-time and regular part-time drivers employed by the Employer out of its facilities located in Traverse City, Michigan and Cadillac, Michigan; but excluding all guards and supervisors as defined in the Act.

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<sup>4</sup> A larger unit than petitioned for has been found appropriate. The Petitioner did not indicate whether it wished to proceed to an election if an election was directed in the larger unit. Accordingly, the Petitioner has seven (7) days from the date of this Decision and Direction of Election in which to advise the undersigned in writing whether it wishes to proceed to an election in the unit found appropriate. In the event the Petitioner does not wish to proceed with the election, it may withdraw its petition without prejudice by notice to the undersigned within seven (7) days from the date of this Decision and Direction of Election. If the Petitioner does not submit any response within seven (7) days, the petition will be dismissed with six months' prejudice to the filing of a new petition encompassing the same or substantially the same unit.

Those eligible to vote shall vote as set forth in the attached Direction of Election.

Dated at Detroit, Michigan, this 26<sup>th</sup> day of June, 2006.

(SEAL)

“/s/[Stephen M. Glasser].”

/s/ Stephen M. Glasser

Stephen M. Glasser, Regional Director  
National Labor Relations Board – Region 7  
Patrick V. McNamara Federal Building  
477 Michigan Avenue – Room 300  
Detroit, Michigan 48226

## **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted under the direction and supervision of this office among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those employees in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Employees who are otherwise eligible but who are in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are 1) employees who quit or are discharged for cause after the designated payroll period for eligibility, 2) employees engaged in a strike, who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and 3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by:

### **GENERAL TEAMSTERS UNION, LOCAL 406, INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

#### **LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that **within 7 days** of the date of this Decision, **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile or E-mail transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **July 3, 2006**. No extension of time to file this list shall be granted except in extraordinary

circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by **July 10, 2006**.

### **POSTING OF ELECTION NOTICES**

a. Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

b. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sundays, and holidays.

c. A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. \*/

d. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

\*/ Section 103.20 (c) of the Board's Rules is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.